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SUBJECT: KAZAKHSTAN: WAS THAT AN INSULT? OPPOSITION NEWSPAPER
FACES FIVE COURT PROCEEDINGS

11. (U) Sensitive but unclassified. Not for public Internet.

12. (SBU) SUMMARY: On December 1, Charge d'Affaires met with Yermurat Bapi, Editor-in-Chief of Tazhargan newspaper. Tazhargan is a weekly opposition paper printed in Russian and Kazakh with a total circulation of 72,000. Bapi reported that since September 2008, the newspaper has experienced many judicial problems and is currently involved in five lawsuits. Bapi said he did not think that all five cases involved the highest levels of political power in Kazakhstan, but he suspected that some emanated from State Secretary Saudebayev's level. In his opinion, the country's leadership "would not have behaved this way" before Kazakhstan was granted chairmanship of the OSCE. Bapi doubted that President Nazarbayev was aware of the cases, since he did not think the President would risk the reputation of the country "just to defend one Member of Parliament." END SUMMARY.

CASE NO.1: INSULT TO A MEMBER OF PARLIAMENT

13. (SBU) The first case involves Member of Parliament Romin Madinov. A story printed in Tazhargan this spring referred to Madinov as a "latifundist," which roughly translates to "land baron" in English. Shortly after the story was run, Madinov wrote a response letter, which the newspaper printed in full. Bapi thought the matter was resolved until Madinov filed a civil lawsuit against Tazhargan claiming approximately \$3 million in moral compensation for the alleged insult. Bapi said "the word itself was not an insult and he told the court as much." A decision in this case is expected in January 2009.

CASE NO. 2: INSULT TO THE LOCAL POLICE DEPARTMENT

14. (SBU) Bapi also told the Charge that earlier this year, four policemen from the Almaty oblast police approached Tazhargan to report that their superiors were taking bribes. The policemen asked to remain anonymous. Bapi claims the paper followed up by speaking with other police officers from the department and with those who had been fired recently. Bapi says the paper heard similar stories from other policemen in the oblast and ran a series of articles on corruption and the abuse of power in the oblast police department. The police department is now claiming approximately \$416,000 in compensation for insulting the dignity and honor of the police department, though Bapi's defense is that the articles reported on specific corrupt individuals and not the department as a whole. Therefore, in Bapi's opinion, the department cannot sue the paper.

The trial in this case began on December 2.

CASES NOS. 3 AND 4: INSULTS TO THE KAZAKH NATIONAL IDENTITY

15. (SBU) The third and fourth cases involve an inter-ethnic incident in Malybai village in Almaty oblast during which two ethnic Uighurs killed an ethnic Kazakh. According to Bapi, Taszhargan reported the facts of the incident without any commentary. However, the journalist who wrote the story quoted a local resident using a pejorative word for ethnic Kazakhs, "manqa qazaq," which roughly translates to "snotty Kazakh" in English. As a result, Bapi says the Deputy Governor of the region has accused the paper of undermining the dignity and reputation of ethnic Kazakhs. However, Bapi claims the paper was just reporting on the events of an incident and that the pejorative word was expressed by a local resident and not the journalist. Two suits were filed relating to this incident, of which the first is an administrative case against the paper and the second is a criminal case against the journalist. A ruling is expected on these cases in mid-December. (NOTE: Kazakhstan's legal code places strict restrictions on speech that connotes racial, ethnic, or religious discord. In a somewhat similar case, the courts ruled to suspend temporarily the activities of a website for failing to monitor pejorative comments in one of its online articles. In the Kazakh context, this may equate to "hate speech." END NOTE.)

CASE NO.5: INSULTS TO A KAZAKH NATIONALIST MOVEMENT

16. (SBU) The final case involves a dispute between the opposition party Azat and the leaders of the Kazakh nationalist movement that carries the same name. (NOTE: The Azat Kazakh movement was active in the early 1990s but has grown dormant in recent years. In 2008, the True Ak Zhol political party renamed itself "Azat," which

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translates to "liberty" in English. END NOTE.) According to Bapi, leaders of the nationalist movement wanted to know why True Ak Zhol decided to take the name of their movement. In response, Taszhargan ran a story stating the Azat movement had done nothing in the past ten years and should be happy the name had been revived. The article stated the nationalist movement was "like a dead body being revived." The Azat Kazakh nationalist movement has filed a defamation case against the paper.

17. (SBU) When asked why so many lawsuits were being filed against Taszhargan, Bapi cited the following reasons: 1) the paper's coverage of "Kazakhgate" (Giffen) bribery case in the United States; 2) Taszhargan's publication of transcripts of phone conversations between high-level government officials provided by the President's former son-in-law Rakhat Aliyev; and 3) the possibility that certain members of President Nazarbayev's inner circle want to please the President by punishing the paper. (NOTE: While other papers published excerpts of the Rakhat Aliyev tapes, only Taszhargan published the full transcripts. These tapes were derived from national security committee (KNB) wire taps allegedly stolen by Aliyev associates when he was Deputy Director of the KNB (2000-01). END NOTE).

18. (SBU) When queried about the Government of Kazakhstan's response to the publication of the Rakhat Aliyev tapes, Bapi said that approximately one month ago, he received a warning from the court to stop printing "a criminal's story." Bapi states the paper stopped publishing the Aliyev stories after this call and noted two of the five court cases were filed after the Aliyev tapes were published. (NOTE: Aliyev has been tried and convicted in absentia for various crimes, including kidnapping and treason. END NOTE).

19. (SBU) Bapi told the Charge that in 10 years of the paper's existence, there have been six attempts to close Taszhargan. He also informed the Charge of other recent problems. For example, he alleged that shots have been fired at the Taszhargan offices twice, the paper's employees have been under surveillance, and that in May, Bapi's car exploded. Bapi has been convicted three times, including one conviction under Article 318 of Kazakhstan's criminal code, which prohibits insulting the dignity and honor of the President. He received one year of probation and one year in prison, but was

given amnesty due to the 10th anniversary of parliament. After the third conviction, he was banned from serving as an Editor-in-Chief of any newspaper, therefore Bapi refers to himself as the "Reader-in-Chief" of Taszhargan.

¶10. (SBU) Bapi claimed that one of "the tricks that the Government of Kazakhstan uses against the mass media is to employ a variety of laws to prosecute newspapers and journalists, including the defamation codes and civic, criminal, and administration laws." The fifth case is being tried under the defamation codes of Kazakhstani law.

¶11. (SBU) NOTE: Bapi originally had said that he would ask the Ambassador to intervene on his behalf. He told Charge, however, that he now will appeal to Vice President-elect Biden after the inauguration. Bapi stated that he has met twice previously with Biden at meetings arranged by Akezhan Kazhegeldin. Kazhegeldin is a former Prime Minister reportedly in exile in London who has been convicted in absentia of corruption. It is widely believed that many Kazakhstani leaders from the immediate post-independence period were involved in some level of corruption. END NOTE.

¶12. (SBU) COMMENT: This case illustrates the existing freedom, and limitations, of the Kazazkhstani press. There is a lively print media, which frequently criticizes the government. On the other hand, editors understand that there are red lines they cannot cross. The Aliyev case, and particularly the wire tap tapes, are one of these lines. It is interesting that Bapi has been able to continue publishing, despite coming very close to -- if not crossing - these lines. This method of using legal pressure is exemplary of a more nuanced way to communicate those limits to the press. It is interesting that even Bapi felt that this pressure did not come directly from the President, but rather from "bad advisors." END COMMENT.

MILAS